

# Nadler, Harman Bills to Restore Habeas Corpus, Ban Torture & Uphold Geneva Conventions

Wednesday, 07 March 2007

WASHINGTON, D.C. – Today, Congressman Jerrold Nadler (D-NY), Chair of the Judiciary Subcommittee on the Constitution, Civil Rights and Civil Liberties, along with Congresswoman Jane Harman (D-CA), Chair of the Homeland Security Subcommittee on Intelligence introduced two bills correcting the problematic parts of the Military Commissions Act, which was signed into law last year. The bills are House companion legislation to the Restoring the Constitution Act of 2007, introduced by Sen. Chris Dodd (D-CT), and the Habeas Corpus Restoration Act of 2007, introduced by Sen. Arlen Specter (R-PA).

At a Press Conference in the Capitol, Mr. Nadler made the following remarks:

Rep. Jerrold Nadler Statement on Introduction of Restoring the Constitution Act of 2007 and the Habeas Corpus Restoration Act of 2007

Good morning. Today, we are here to take an important step toward restoring our Constitution. We are here to reestablish the ancient principle that is key to protecting individual liberty – that a person cannot be deprived of liberty – he or she cannot be held in jail – unless the government can demonstrate to a neutral judge that there is “probable cause” to believe he or she has committed a crime.

The President claims the authority – and the Military Commissions Act of last year purports to give it to him – to be able to point his finger at anyone and say, “You’re an Enemy Combatant because I say so. And because I say so, we’re going to throw you in jail forever without ever giving you due process – you may never see an impartial judge, you may never see the evidence against you and you may never be able to challenge my decision to point my finger at you in the first place.”

No executive in an English-speaking country has claimed such tyrannical authority since the Magna Carta was adopted almost 800 years ago. Until now. It is a testament to the audacity and disrespect this President has for the rule of law that he has deprived people of the right to seek relief from unlawful detention. For 800 years, the writ of habeas corpus has been the most important instrument for the safeguarding of individual freedom against arbitrary state action. “Habeas corpus” means “bring the body – bring the body, Sir King, before a neutral magistrate to demonstrate why this person should be confined.”

I am pleased to be joined by Congresswoman Jane Harman, who has been a champion on these issues. She is determined, as I am, that while we must bring terrorists to justice, we must not destroy American liberty in the process. Both of us believe that the Military Commissions Act of 2006 does not provide a proper process for the government to determine who is a terrorist and who was picked up by mistake and poses no threat.

That is why we are introducing the Restoring the Constitution Act of 2007 and the Habeas Corpus Restoration Act of 2007.

The Restoring the Constitution Act cures the grievous wounds to the fabric of our liberty inflicted by the Military Commissions Act. This bill ensures that innocent people are afforded due process of law. It narrows the definition of “unlawful enemy combatant” to those individuals who directly participate in hostilities against the U.S. or who aided in the September 11th attacks. The bill limits the use by military commissions of evidence obtained through

coercion and sharply limits evidence gathered from hearsay - critical steps towards an honest and accurate system of justice. It would also restore cruel, inhuman and degrading treatment and the denial of trial rights as war crimes punishable under the War Crimes Act.

The Habeas Corpus Restoration Act focuses on two particularly important rights that would also be reestablished under the Restoring the Constitution Act: This bill would undo the Military Commission Act's provision that stripped the federal courts of jurisdiction to consider applications for writs of habeas corpus filed by persons designated by the President as "unlawful enemy combatants." This bill would also restore some of our treaty obligations under the Geneva Conventions. These measures will ensure that we concentrate our efforts on detaining and prosecuting terrorists, and that we do not incarcerate people who are not given a day in court.

In standing up for American values and security, we can restore the checks and balances that are fundamental to preserving the liberties that define us as a nation.

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